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UNCLAS ISTANBUL 001889

SIPDIS

SENSITIVE

DEPT FOR E, EB/CBA AND EUR/SE
USTR FOR LERRION
TREASURY FOR OASIA - MILLS AND ADKINS
USDOC/ITA/MAC FOR DAVID DEFALCO
TDA FOR SNYDER

E.O. 12958: N/A

TAGS: [EINV](#) [ECPS](#) [BEXP](#) [TU](#)

SUBJECT: MOTOROLA DISPUTE SETTLED

REF: A. ISTANBUL 1577

[¶](#)B. ANKARA 4332

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[¶](#)1. (SBU) Protracted negotiations between Motorola and the Turkish Savings Deposit Insurance Fund (SDIF) came to a successful conclusion on October 28 with the signing of an agreement by which Motorola renounced its legal claims against both the SDIF and Telsim in exchange for a cash payment of USD 500 million and the right to receive 20 percent of the proceeds of the sale of the company over USD 2.5 billion. Motorola also dismissed its litigation against Telsim and its arbitration case against the Government of Turkey. It retains the right, however, to pursue its claims against the Uzan family in jurisdictions outside Turkey and "certain other agreed upon countries." The settlement follows by several months a similar settlement with Nokia, which was also defrauded by the Uzans, by which that company will receive 7.5 percent of Telsim's sale proceeds.

[¶](#)2. (SBU) Conclusion of the deal has been anticipated for months. SDIF President Ahmet Erturk confirmed to us in September that financial provisions had long since been agreed to by both sides (refs). The key stumbling block proved to be finding the legal phraseology to provide Motorola's desire for an iron-clad payment guarantee, even if the seizure of Telsim, from which the payment will be financed, were to be overturned. In the end, the model outlined by Erturk to us in September was used: an up-front cash payment for the bulk of the settlement (USD 500 million), with the remainder to come from the proceeds from sale of Telsim itself. Industry sources predict that with current heated interest in Turkish assets from both local and international investors, Telsim could easily attract bids of up to USD 4 billion, well above its USD 2.8 billion reserve price. Motorola could thus conceivably recoup up to USD 800 million of its USD 2 billion plus loss on its ill-fated equipment supply contract to the Turkish cellular phone operator.

[¶](#)3. (SBU) In its statement, Motorola praised the Turkish government's "cooperation and diligent efforts to find a solution" that both allowed Motorola to collect on its debt while also preserving Telsim as a viable cellular carrier. That effort, the company said in its press release, "instills confidence in Turkey's strong economic and investment climate" and will enable Motorola to continue to support Telsim's operations.

[¶](#)4. (SBU) Comment: Motorola executives both locally and in Washington have expressed appreciation for longstanding USG support for their efforts to achieve a settlement with the SDIF. The company's statement makes clear that the Telsim chapter is not totally closed, however: several class action suits in the U.S. against former Motorola officers and directors continue as a result of the original Telsim deal, as does an SEC investigation. And in a clear indication that once-bitten, twice-shy, the company warns that its optimism about the settlement involves "risks and uncertainties," in that "failure of any party to perform...or if Telsim is not sold or is sold at a low price" could cause Motorola's actual results to fall short of expectations. All in all, however, the deal is an extremely positive one for both sides, enabling Motorola to win significant compensation, and at the same time enhancing the value of Telsim and thereby allowing the GOT to defray more of the costs it assumed when it took over the Uzans' Imar Bank.

[¶](#)5. (SBU) The settlement also marks a turning point regarding U.S. business problems in Turkey. The Motorola problem had long stood out as one of the highest-profile U.S. business problems here. Its resolution, following on the resolution of Cargill's zoning problem, will go a long way to change Turkey's reputation as a bad environment for U.S. businesses.

In both cases, the GOT played a role, albeit slowly, in getting to a settlement satisfactory to the American firm.
End Comment.

SMITH